

1 WINTON LAW CORPORATION
2 Steven W. Winton (State Bar No. 114425)
3 swwinton@wintonlawcorp.com
4 11440 West Bernardo Court, Suite 214
5 San Diego, California 92127
6 Telephone (858) 385-0600 / Facsimile (858) 385-9389

7 BROWNE GEORGE ROSS LLP
8 Peter W. Ross (State Bar No. 109741)
9 pross@bgrfirm.com
10 Keith J. Wesley (State Bar No. 229276)
11 kwesley@bgrfirm.com
12 Benjamin D. Scheibe (State Bar No. 101327)
13 bscheibe@bgrfirm.com
14 2121 Avenue of the Stars, Suite 2400
15 Los Angeles, California 90067
16 Telephone: (310) 274-7100 / Facsimile: (310) 275-5697

17 LAW OFFICES OF GARY FREEDMAN
18 Gary Freedman (State Bar No. 49922)
19 goromans@aol.com
20 1149 Third Street, Suite 200
21 Santa Monica, California 90403
22 Telephone: (310) 576-2444 / Facsimile: (310) 576-2440

23 Attorneys for Plaintiff
24 BRIGHTON COLLECTIBLES, INC.

15 UNITED STATES DISTRICT COURT
16 SOUTHERN DISTRICT OF CALIFORNIA

17 BRIGHTON COLLECTIBLES, INC., a
18 Delaware corporation,

19 Plaintiff,

20 vs.

21 RK TEXAS LEATHER MFG, INC. d/b/a
22 TEXAS LEATHER MANUFACTURING, a
23 Texas corporation; RICHARD OHR, an
24 individual, K&L IMPORTS, INC., a
25 California corporation; NHW, INC. d/b/a
26 SENSETRADING CO., a Texas corporation;
27 YK TRADING, INC., a Texas corporation;
INTERNATIONAL, LUCKY-7
INTERNATIONAL and TIME WORLD, a
Texas corporation; and Does 1 through 10,
inclusive,

28 Defendants.

Case No. 10-CV-00419- CAB (WVG)

The Hon. Cathy Ann Bencivengo

**JOINT MOTION RE: SCHEDULING OF
(A) BRIEFING AND HEARING ON
DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND RELATED
ISSUES AND (B) PRE-TRIAL
DISCLOSURES AND PRE-TRIAL
CONFERENCE**

Trial Date: None Set

1 All parties hereto, through their respective counsel of record, respectfully submit this joint
 2 motion seeking a modified schedule governing (a) the briefing and hearing on defendants' motions
 3 for summary judgment and related *Daubert* motions; and (b) pre-trial disclosures and the pre-trial
 4 conference.

5 **I. BACKGROUND.**

6 Plaintiff Brighton Collectibles, Inc. ("Brighton") filed this copyright, trade dress and unfair
 7 competition action against defendant RK Texas Leather ("Texas Leather") on February 24, 2010.
 8 (Doc. No. 1.) On December 6, 2010, Texas Leather filed a third-party complaint against its
 9 suppliers of the allegedly infringing products. (Doc. No. 17.) On February 28, 2011, Brighton
 10 filed a First Amended Complaint which added direct claims against Texas Leather's suppliers.
 11 (Doc. No. 51.) On August 31, 2011, Brighton filed a Second Amended Complaint which added
 12 additional copyright claims, a registered trademark claim and claims against Texas Leather's
 13 owner, Richard Ohr. (Doc. No. 87.) The operative scheduling order was entered on January 11,
 14 2012 at Doc. No. 121. The case was transferred from the Honorable Anthony J. Battaglia to the
 15 Honorable Cathy Ann Bencivengo on June 7, 2012. (Doc. No. 135.)

16 The parties have worked diligently to complete both fact and expert discovery, which was
 17 especially challenging in light of the many parties, counsel and experts involved in the action and
 18 the fact that witnesses were scattered throughout the United States.

19 Following the close of discovery, on June 12, 2012, the parties participated in a mandatory
 20 settlement conference with Magistrate Judge Gallo. The parties and Magistrate Judge agreed to
 21 reconvene for another settlement conference after the Court rules on defendants' motions for
 22 summary judgment.

23 In June and July 2012, Defendants filed a total of five motions for summary judgment or
 24 adjudication and a variety of notices of joinders related thereto. Defendants also filed two motions
 25 in limine to exclude Brighton's experts Drs. Gary Frazier and Robert Wunderlich. All of
 26 defendants' motions are set to be heard on August 23, 2012, thus making all of Brighton's
 27 oppositions due on August 9, 2012 and all of defendants' replies due on August 16, 2012.

28 Upon receipt and review of the motions, counsel for Brighton determined that additional

333429.1

10-CV-00419- CAB (WVG)

1 time would be needed to oppose defendants' motions. Defendants' motions include briefing in
 2 excess of 150 pages and thousands of pages of exhibits. Moreover, the parties have invested
 3 substantial time and expense in this matter, and therefore all parties seek a full and fair opportunity
 4 to brief the merits of their positions. Finally, lead counsel for Brighton – Peter W. Ross and Keith
 5 J. Wesley – both have pre-planned vacations that will render them unavailable to work on the
 6 oppositions from July 19, 2012 through July 29, 2012.

7 In light of the factors above, counsel for Brighton met and conferred with counsel for the
 8 defense about extending the time for Brighton to oppose defendants' motions. In light of the
 9 anticipated volume of Brighton's oppositions and supporting evidence, Brighton too offered to
 10 provide defendants additional time for their reply briefs.

11 The parties agreed that the most sensible and preferable course would be to continue not
 12 only the hearing on defendants' motions for summary judgment and related issues, but also
 13 continue the pre-trial conference currently set for November 2, 2012. The logic is that the parties
 14 require additional time to brief the issues raised in defendants' motions, the Court likely will
 15 require time to review and rule upon the motions, and then the parties and Magistrate Judge will
 16 need time to explore the possibility of settlement. The parties agree that all of the aforementioned
 17 tasks should be undertaken prior to the parties expending additional time and expense engaging in
 18 pre-trial disclosures and related filings. That time and expense would be a waste if a settlement is
 19 reached, and the expenditure of additional funds on pre-trial disclosures and related filings will
 20 make settlement all the more difficult to reach.

21 **II. STIPULATION.**

22 Therefore, all parties hereto, through their respective counsel of record, have agreed upon
 23 the following amended case management schedule and respectfully request that the Court enter an
 24 Order memorializing the parties' agreement or setting a schedule reasonably in conformance with
 25 the following:

- 26 • September 7, 2012 – Brighton's Oppositions To Defendants' Motions
- 27 • September 28, 2012 – Defendants' Replies
- 28 • October 12, 2012 – Hearing on Defendants' Motions

- 1 • November/December 2012 – Settlement Conference
- 2 • February 1, 2013 – Pretrial Disclosures
- 3 • February 8, 2013 – Last Day to Meet and Confer Pursuant to Local Rule 16.1(f)(4)
- 4 • February 15, 2013 – Final Pretrial Conference Order
- 5 • February 22, 2013 – Final Pretrial Conference

6 To the extent the parties' proposal or a similar schedule is not acceptable to the Court, the
7 parties maintain their joint request to continue the briefing schedule and hearing on defendants'
8 motions for summary judgment and related issues and respectfully request the opportunity to be
9 heard or to submit an alternative proposal in that regard.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 Dated: July 12, 2012

WINTON LAW CORPORATION
BROWNE GEORGE ROSS LLP
LAW OFFICES OF GARY FREEDMAN

4

5 By s/ Keith J. Wesley
6 Attorneys for Plaintiff
7 Brighton Collectibles, Inc.

8

Dated: July 12, 2012

FULBRIGHT WINNIFORD, A.P.C.
BEST BEST & KRIEGER LLP

9

10

11 By s/ Dan N. MacLemore
12 Attorneys for Defendant and Third-Party
13 Claimant RK Texas Leather Mfg., Inc., d/b/a Texas
14 Leather Manufacturing and Defendant Richard
15 Ohr

16

Dated: July 12, 2012

HELLER & EDWARDS

17

Dated: July 12, 2012

WALKER, PENDERGRASS & TIETSWORTH, LLP

18

19

By s/ Lawrence Heller
Attorneys for Defendant and Third-Party
Defendant K&L Imports, Inc.

20

21

22

23

24

25

26

27

28

333429.1

-4-

10-CV-00419- CAB (WVG)

1
2
3
4
Dated: July 12, 2012

ROPERS, MAJESKI, KOHN & BENTLEY

5 By s/ Thomas M. O'Leary
6 Attorneys for Defendant and Third-Party
Defendant Joy Max Trading, Inc.

7 Dated: July 12, 2012

BROOKS KUSHMAN P.C.

8 By s/ Chanille Carswell
9 Attorneys for Defendant and Third-Party
Defendant Joy Max Trading, Inc.

10 Dated: July 12, 2012

KINSELLA WEITZMAN ISER KUMP & ALDISERT
11 LLP

12 By s/ David W. Swift
13 Attorneys for Defendant and Third-Party
14 Defendant NHW, Inc.

15 Dated: July 12, 2012

MURPHY PEARSON BRADLEY & FEENEY

16 By s/ James F. Monagle
17 Attorneys for Defendant and Third-Party
18 Defendant YK Trading, Inc.

19

20

21

22

23

24

25

26

27

28

333429.1

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 At the time of service, I was over 18 years of age and **not a party to this action**. I am
4 employed in the County of Los Angeles, State of California. My business address is 2121 Avenue
of the Stars, Suite 2400, Los Angeles, CA 90067.

5 On July 12, 2012, I served true copies of the following document(s) described as **JOINT**
6 **MOTION RE: SCHEDULING OF (A) BRIEFING AND HEARING ON DEFENDANTS'**
7 **MOTIONS FOR SUMMARY JUDGMENT AND RELATED ISSUES AND (B) PRE-**
TRIAL DISCLOSURES AND PRE-TRIAL CONFERENCE on the interested parties in this
action as follows:

SEE ATTACHED SERVICE LIST

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct and that I am employed in the office of a member of the bar of this
Court at whose direction the service was made.

11 Executed on July 12, 2012, at Los Angeles, California.

Djapo Torosyan

1 SERVICE LIST

2 Brighton Collectibles, Inc. v. RK Texas Leather
3 10-CV-00419-AJB-WVG

4 3 Dan MacLemore
5 FULBRIGHT WINNIFORD, APC
6 425 Austin Avenue, 22nd Fl.
7 P.O. Box 445
8 Waco, TX 76701
9 Telephone: (254) 776-6000
10 Facsimile: (254) 776-8555
11 dmaclemon@fulbrightlaw.com
12
13 Robert J. Hanna
14 Matthew L. Green
15 BEST, BEST & KRIEGER LLP
16 655 West Broadway, 15th Fl.
17 San Diego, CA 92101
18 Telephone: (619) 525-1300
19 Facsimile: (619) 233-6118
20 robert.hanna@bbklaw.com
21 matthew.green@bbklaw.com
22
23 James C. Potepan
24 Thomas M. O'Leary
25 Brian C. Vanderhoof
26 E. Lacey Rice
27 ROPERS, MAJESKI, KOHN & BENTLEY
28 515 South Flower Street, Suite 1100
Los Angeles, CA 90071-2213
Telephone: (213) 312-2000
Facsimile: (213) 312-2001
jpotepan@rmkb.com
toleary@rmkb.com
bvanderhoof@rmkb.com
lrice@rmkb.com
Mark A. Cantor
Chanille Carswell
BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Telephone: (248) 358-4400
Facsimile: (248) 358-3351
mcantor@brookskushman.com
ccarswell@brookskushman.com

Co-Counsel for Defendant and
Third-Party Plaintiff
RK TEXAS LEATHER MFG, INC.
d/b/a TEXAS LEATHER
MANUFACTURING

Co-Counsel for Defendant and
Third-Party Plaintiff
RK TEXAS LEATHER MFG, INC.
d/b/a TEXAS LEATHER
MANUFACTURING

Co-Counsel for Defendant and Third-Party
Defendant JOY MAX TRADING, INC.

Co-Counsel for Defendant and Third-Party
Defendant JOY MAX TRADING, INC.

1 William E. Thomson, Jr.
BROOKS KUSHMAN P.C.
2 601 South Figueroa Street
Suite 2080
3 Los Angeles, CA 90017
Telephone: (213) 622-3003
4 Facsimile: (213) 622-3053
wthomson@brookskushman.com
5
6 Kent M. Walker
WALKER, PENDERGRASS
& TIETSWORTH LLP
7 402 W. Broadway, Suite 400
San Diego, CA 92101-3504
8 Telephone: (619) 446-5603
Facsimile: (619) 595-3150
kent@kentmwalker.com
9
10 David W. Swift
KINSELLA WEITZMAN ISER KUMP &
11 ALDISERT, LLP
808 Wilshire Blvd., 3rd Floor
12 Santa Monica, CA 90401
Telephone: (310) 566-9800
13 Facsimile: (310) 566-9850
dswift@kwikalaw.com
14
15 Chong H. Roh
John K. Park
PARK LAW FIRM
16 3255 Wilshire Blvd., Suite 1110
Los Angeles, CA 90010
17 Telephone: (213) 389-3777
Facsimile: (213) 389-3377
18 chroh@parklaw.com
firm@parklaw.com
19
20 Lawrence Heller
HELLER & EDWARDS
9454 Wilshire Blvd., Suite 500
21 Beverly Hills, CA 90212
Telephone: (310) 550-8833
22 Facsimile: (310) 858-6637
lheller@hellerandedwards.com
dswift@kwikalaw.com
23
24 Morgan E. Pietz
The Pietz Law Firm
3770 Highland Ave., Suite 206
25 Manhattan Beach, CA 90266
Telephone: (310) 424-5557
26 Facsimile: (310) 546-5301
27 mpietz@pietzlawfirm.com
28

Co-Counsel for Defendant and Third-Party
Defendant JOY MAX TRADING, INC.

Counsel for Defendant and Third-Party
Defendant AIF CORPORATION d/b/a
GLOBAL TIME INTERNATIONAL,
LUCKY-7 INTERNATIONAL and TIME
WORLD, a Texas Corporation

Counsel for Defendant and Third-Party
Defendant NHW, Inc. dba NHW CO.

Counsel for Defendant and Cross-Claim
Defendant K&L IMPORT, INC.

Counsel for Defendant and Cross-Claim
Defendant K&L IMPORT, INC.

Counsel for Defendant and Cross-Claim
Defendant K&L IMPORT, INC.

Counsel for Defendant and Cross-Claim
Defendant K&L IMPORT, INC.

1 Timothy J. Halloran
2 James F. Monagle
3 Jeff C. Hsu
4 MURPHY, PEARSON, BRADLEY & FEENEY
5 88 Kearney Street, 10th Floor
6 San Francisco, CA 94108-5530
7 Telephone: (415) 788-1900
8 Facsimile: (415) 393-8087
9 thalloran@mpbf.com
10 jmonagle@mpbf.com
11 jhsu@mpbf.com

Counsel for Defendant
YK TRADING, INC.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

333429.1

10-CV-00419- CAB (WVG)

JOINT MOTION RE: SCHEDULING OF (A) BRIEFING AND HEARING ON DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND RELATED ISSUES AND (B) PRE-TRIAL DISCLOSURES AND PTC